

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK  
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UNITED STATES OF AMERICA

AFFIDAVIT  
3:05-CR-270(TJM/DEP)

vs.

DAVID J. FALSO

Defendant.  
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Robert C. DeCicco, being duly sworn deposes and says that;

1. I am a Data Forensics Case Manager for PG Lewis & Associates, LLC One Salem Square-Suite 201 West 295 Route 22 East Whitehouse Station, NJ 08889.

2. Prior to my tenure at P.G. Lewis, I was employed by the National Security Agency in support of the Information Assurance Directorate, which secures Department of Defense (the "DOD") communications. I have received training from the DOD, Guidance Software (the market leader in computer forensics software), and various other forensic software corporations specific to computer forensic best practices, analysis processes, and report composition. A copy of my curriculum vitae is attached hereto as Exhibit A.

3. P.G. Lewis is a data forensics firm serving its clients needs in systematically identifying, preserving, extracting, analyzing, and interpreting digital evidence. This includes uncovering e-mail communications, account information, file copying, attempted data destruction, account usage, and other activities performed on computers.

4. P.G. Lewis has assisted clients in a wide variety of legal actions, ranging from cases involving fraud, intellectual property theft, wrongful termination, forgery and other matters relating to matrimonial and custody disputes. We have worked in both the civil

and criminal context. I, as well as other members of the company's staff, are fully familiar with evidentiary and chain of custody requirements, and have provided analysis and expert testimony in both Federal and State litigations.

5. P.G. Lewis complies with all computer forensics standards as set forth by the U.S. Federal Bureau of Investigation (FBI) and Guidance Software's Incident Response Forensic Analysis and Discovery (IRFAD) program.

6. At the request of Thomas A. Saitta, Esq., I have reviewed the Application and Affidavit for Search Warrant relating to the search warrant issued with respect to 20 Peaceful Drive, Cortland, New York, including paragraphs 30 and 31 relating to a "forensic investigation" of the website hosting [www.cpfreedom.com](http://www.cpfreedom.com), and certain records of an internet service provider associated with a Yahoo e-mail address. I have also reviewed an information sheet and log in tracker (4 pgs.) relating to the defendant's Yahoo account.

7. An internet service provider is a company that provides access to the internet. The service provider provides a software package, username, password and either an access phone number or cable access to allow a customer to log on to the internet.

8. Internet service providers generally provide electronic mailing services and support gateways to allow a customer to exchange electronic mail with users of other computer systems.

9. Internet service providers do not maintain records identifying the websites and individual URL pages visited by its customers while on the internet.

10. Accordingly, a search of the records of an internet service provider would not disclose whether a customer was a subscriber or member of a particular website.

11. I have also reviewed that portion of paragraph 31 of the application which states that the defendant's e-mail address appeared on the cpfreedom.com website, and based upon the government's investigation, it appeared that the defendant either gained access or attempted to gain access to the website in question.

12. Initially, it should be noted that there is a difference between visiting a website, and become a member and/or subscriber to the site. Normally, becoming a member of a website involves the assignment of a password and user name conditioned on the payment of a fee or the provision of specific personal information.

13. Additionally, the fact that the defendant's e-mail address appeared on the aforementioned website does not mean that he contacted or attempted to contact that site. It is common practice for websites to obtain lists of e-mail addresses from other sources, including other websites, for business purposes, and to send unsolicited e-mail to such addresses.

s/“Robert C. DeCicco”  
Robert DeCicco

Sworn to before me this 3rd day of  
2006.

s/“Kenneth DeTizio”  
Notary Public

**EXHIBIT A**

**(DeCicco CV)**